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December 20, 2012

The Honorable Barbara M.G. Lynn
Judge, United States District Court
Northern District of Texas, Dallas Division
1100 Commerce Street, Room 1572
Dallas, TX 75242

Re: Civil Action No. 3:12-CV-4200-M
Lori Cavanaugh, et al. v. New England Compounding Pharmacy,
Inc. d/b/a New England Compounding Center

Dear Judge Lynn:

On behalf of Defendant New England Compounding Pharmacy (“NECC”), in accordance with the Unopposed Motion to Stay, we write to request that the meet and confer which is to occur on or before January 2, 2013, and the January 16, 2013 deadline for filing a FRCP 26(f) Joint Report, be adjourned without date, in light of the Judicial Panel on Multi-District Litigation hearing on January 31, 2013.

This action, one of many federal court actions in numerous district courts pending against NECC, alleges that Plaintiffs have suffered personal injuries after being exposed to methylprednisolone acetate compounded and distributed by NECC. Currently, there are at least 114 cases pending in 14 federal courts across the country, as well as over 300 claims, involving the tainted pharmaceutical compound. NECC anticipates that hundreds more such cases will be filed in the coming months.

On October 16, 2012, plaintiffs in the Michigan action *Bansale v. New England Compounding Pharmacy, Inc.*, Case No. 12-cv-14559 (E.D. Mich. filed Oct. 15, 2012), filed a Motion for Transfer and Consolidation of Related Cases (the “MDL Motion”) with the Judicial Panel on Multidistrict Litigation (the “Panel”). NECC favors MDL coordination, and no opposition has been filed by any party to an MDL coordination. On December 13, 2012, the Panel agreed to hear the MDL Motion on January 31, 2013. (J.P.M.L. Case No. 857, ECF No. 9103.)


While the Panel considers the MDL Motion, NECC has filed a motion to stay all proceedings in this action, including all pretrial discovery and future motion practice, pending the Panel’s adjudication of the MDL Motion. Plaintiffs do not oppose this motion.

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For the same reasons that NECC seeks a stay, NECC asks that its obligation to meet and confer and file a Rule 26(f) report and any right of the parties to serve or proceed with discovery be delayed until this Court has an opportunity to review the pending motion. For this Court to advance proceedings in the instant matter would work at cross-purposes with that of the Panel as it considers whether to consolidate and transfer the cases. Indeed, because the instant action involves virtually identical predicate factual allegations, common questions of law and fact and overlapping claims for relief, continuing proceedings before the Panel adjudicates the pending motion would needlessly waste this Court's limited time and resources, as well as that of the parties hereto. Further, it would also alter the underlying circumstances the Panel must consider in adjudicating the MDL Motion. To promote judicial economy and avoid prejudice to any party, and to allow the MDL Motion to be ruled upon without any change in circumstances, NECC respectfully requests a stay pending the Panel's determination.

Given that the parties are obligated to meet and confer by January 2, 2013 and file their Rule 26(f) Report by January 16, 2013, NECC would appreciate a timely response to this request. NECC's counsel is further available for a conference call to discuss this issue if the Court deems appropriate.

Sincerely,


Jennifer D. LeBlanc

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